

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Application by SBC Communications,)	WC Docket No. 03-167
Inc. for Authorization To Provide In-)	
Region, InterLATA Services in the)	
States of Illinois, Indiana, Ohio, and)	
Wisconsin)	

COMMENTS OF THE
PUBLIC UTILITIES COMMISSION OF OHIO

Jim Petro
Attorney General

Steven T. Nourse
Assistant Attorney General
Public Utilities Section
180 E. Broad St.
Columbus, OH 43215
(614) 466-4395
Fax: (614) 644-8764

Counsel on behalf of
The Public Utilities Commission of Ohio

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Application by SBC Communications,)	WC Docket No. 03-167
Inc. for Authorization To Provide In-)	
Region, InterLATA Services in the)	
States of Illinois, Indiana, Ohio, and)	
Wisconsin)	

COMMENTS OF THE
PUBLIC UTILITIES COMMISSION OF OHIO

The Public Utilities Commission of Ohio (Ohio commission) recommends that SBC Ohio be authorized to provide in-region interLATA telecommunication services in Ohio. As is demonstrated and discussed in detail in the Report and Evaluation (attached as “Appendix A”), SBC Ohio satisfies the requirements of Section 271 of Communications Act of 1934, as amended by the Telecommunications Act of 1996 (Section 271). *See* 47 U.S.C. § 271 (West 2003). Accordingly, the Federal Communications Commission (FCC) should grant SBC Ohio authorization to provide in-region, interLATA services in the State of Ohio.

The Ohio commission Report and Evaluation demonstrates that SBC Ohio has opened its local market to competitive local exchange companies (CLECs) who wish to compete in Ohio. SBC Ohio has done so by fully implementing the competitive checklist found in Section 271(c)(2)(B) with respect to its provision of access and interconnection pursuant to Section

271(c)(1)(A). The Ohio commission's detailed findings (found in the attached report) are based on the voluminous record produced in the extensive proceeding conducted in Ohio. Over the course of more than three years, the Ohio proceeding has involved extensive examination of SBC Ohio's § 271 checklist compliance, competitive market conditions, OSS systems and public interest considerations.

In addition to the arguments and positions of a substantial number of expert witnesses and capable legal counsel representing the many and diverse interests in the Ohio proceeding, scores of consumers and public officials have also weighed in on a host of issues in the Ohio docket. Through the expenditure of immense resources, both public and private, SBC Ohio's operations and track record have been scrutinized to a demanding degree. As a result of this lengthy and complex process, it is the Ohio commission's belief, based on the proceeding conducted in Ohio and the resulting record, that SBC Ohio's network, for the purpose of satisfying the requirements of the 1996 Act, is open to competitors on a non-discriminatory basis. Based on the further belief that SBC Ohio's authorization will be carried out in accordance with the requirements of Section 272 and that such authorization is consistent with the public interest, convenience, and necessity, the Ohio commission favorably recommends that the FCC approve SBC Ohio's request for authorization to enter into the interLATA services market.

While certain aspects of a third-party operational support systems (OSS) test are pending in Ohio, and though certain issues are currently being resolved, the Ohio commission is confident that these issues will be rectified shortly. As is demonstrated in our Report and Evaluation, the overall test results demonstrate statutory compliance based on information that is

sufficiently reliable for purposes of Section 271. The overwhelming evidence shows that the competitive market in Ohio is rapidly growing.

Further, in order to bring quick resolution to the pending third-party test issues and to provide additional assurance that no “backsliding” occurs after SBC Ohio receives 271 approval while improving the interfaces between SBC Ohio and its competitors, the Ohio commission also issued an order on June 26, 2003 requiring SBC Ohio to comply with a separate OSS compliance plan which will be implemented under the full supervision and scrutiny of the Ohio commission. The performance measurement compliance plan has two major components: (1) successful completion of the PMR Test by October 1, 2003 subject to civil forfeitures that will increase with each subsequent period of non-compliance (if it is shown that SBC substantially contributed to the delay), and (2) periodic compliance audits and potential mini-audits to ensure and address ongoing compliance with reporting accuracy, data integrity and data replication requirements (with civil forfeitures and cost reimbursement remedies for ongoing non-compliance deficiencies caused by SBC Ohio, if any). This compliance plan is in addition to SBC Ohio’s existing obligations and without limitation as to any additional remedy or enforcement action that may otherwise be taken by the FCC or the Ohio commission. The Ohio commission is committed to competition, and we will use whatever regulatory tools are necessary to assure that the competitive market remains open and that no backsliding occurs.

The Ohio commission’s efforts to open our local markets to competition actually began prior to the Federal Telecommunications Act of 1996 with several orders setting forth local competition service guidelines and rules. Ohio was also one of the first states to establish wholesale prices for access to network elements, compensation, and resale

of retail service. The Ohio commission first adopted wholesale performance measurements for SBC Ohio's OSS over three years ago. For several years we have collaborated with the CLEC community and other interested parties, including Ohio consumer representatives. Immense resources have been expended in working with an independent third-party OSS tester (BearingPoint) to evaluate SBC Ohio's OSS in effort to establish an open competitive market. The Ohio commission believes that this endeavor will ultimately benefit the public and we look forward to the spirited competition for Ohio consumers in both local and long distance communications markets that will be advanced upon FCC approval of SBC Ohio's Section 271 application. The Ohio commission reserves the right to address in its reply comments any issue raised by another commenter.

CONCLUSION

For the foregoing reasons, the Ohio Commission respectfully requests that the FCC approve SBC Ohio's application for authorization to provide in-region, interLATA services in Ohio.

Respectfully submitted,

Jim Petro
Attorney General

/s/ Steven T. Nourse
Steven T. Nourse
Assistant Attorney General
Public Utilities Section
180 E. Broad St.
Columbus, OH 43215
(614) 466-4395
Fax: (614) 644-8764